Paul Fields
Cameron S. Reuber
Peter T Busch
LEASON ELLIS LLP
One Barker Avenue
Fifth Floor
White Plains, New York 10601
Phone: (914) 288-0022
Attorneys for Plaintiff

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

TIANHAI LACE USA, INC., *a New York corporation,* *Plaintiff,* v. LORD & TAYLOR LLC, *a Delaware corporation*, and DOES 1-10, *Defendants.*	Civil Action No. 1:17-cv-01328 ECF Case **JURY TRIAL DEMANDED**

COMPLAINT

Plaintiff Tianhai Lace USA, Inc. ("Plaintiff" or "Tianhai"), by and through its attorneys, Leason Ellis LLP, for its Complaint against Defendant Lord & Taylor LLC ("L&T"), and Does 1-10, (collectively "Defendants"), on personal knowledge as to Tianhai's own activities and on information and belief as to the activities of Defendants, allege the following:

NATURE OF THIS ACTION

This is a civil action for (i) willful copyright infringement in violation of 17 U.S.C. § 101 *et seq.*, (ii) vicarious and/or contributory copyright infringement under federal common law, and (iii) unfair competition under New York common law. Plaintiff is the copyright owner of original works of art for use as lace designs to be incorporated into wearing apparel. Defendants use Tianhai's lace designs in connection with Defendants' promotion and sale of products throughout the United States and such use constitutes an unauthorized reproduction, display, distribution, publication and utilization of the designs. Tianhai seeks, *inter alia*, injunctive relief prohibiting further infringement of its rights to the designs, an award of damages compensating Tianhai for the unauthorized use, and the costs of the action awardable under 17 U.S.C. § 505.

THE PARTIES

1. Plaintiff Tianhai Lace USA, Inc. is a New York corporation with its principal place of business at 152 Madison Avenue, Suite 1103, New York, NY 10016.

2. Defendant Lord & Taylor LLC is a limited liability company organized under the laws of Delaware with offices at 424 Fifth Avenue, New York, New York 10018.

3. Lord & Taylor LLC, on information and belief, has notified the NYS Department of State, Division of Corporations, that its Agent for service of process is Corporation Service Company, 80 State Street, Albany, New York 12207.

4. Currently, the names and identities of Does 1-10 are unknown to Plaintiff. Plaintiff reasonably believes that Defendant has information in its possession, custody, and control that can be used to identify Does 1-10. Plaintiff reserves its rights to timely seek leave of the court to amend this pleading upon ascertaining the true names and identities of Does 1-10.

JURISDICTION AND VENUE

5. This Complaint alleges causes of action under the Copyright Laws of the United States, Title 17 of the United States Code and claims of unfair competition under New York state law.

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338, and 2201 as well as under Title 17 of the United State Code. Supplemental jurisdiction for the state law claims of unfair competition is proper pursuant to 28 U.S.C. §§ 1367 and 1338(b)

because this claim forms part of the same case or controversy as the claims for copyright infringement.

7. This Court has personal jurisdiction over Defendants because: (1) Defendants have committed, and continue to commit, acts of infringement in the Southern District of New York through solicitation of business, advertising and sale of products online, and on information and belief in retail stores in this district; (2) Defendants have purposefully directed their infringing conduct toward New York residents, which caused and continues to cause harm to Plaintiff (a New York corporation); and (3) Defendants purposefully directed their activities toward the Southern District of New York when they willfully infringed Plaintiff's intellectual property rights, knowing that Plaintiff has a principal place of business in this District.

8. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and 1400(a) in that Defendants have committed acts of infringement in this district and are subject to personal jurisdiction in this District.

FACTS COMMON TO ALL COUNTS

Tianhai's Copyrighted Lace Designs

9. Tianhai is a prominent designer and distributor of lace fabric and has been for many years. In conjunction with its co-authors, Tianhai has created new and innovative lace fabric designs for use in connection with women's apparel and, moreover, has developed a reputation as a source of high quality lace in the apparel industry. In order to ensure exclusivity, its designs are protected under the copyright laws.

10. Tianhai, with a corporate office on Madison Avenue in New York, primarily operates as the U.S. sales arm of a group of three sister companies (including non-parties Tianhai Lace Co. Ltd. ("TLC") and Tianhai Lace (Guangdong) Ltd. ("TLG")), all of whom collaborate on the creation, manufacture, and marketability of lace fabric designs. Tianhai, with the

knowledge and consent of TLC and TLG, also operates as the U.S. enforcement arm of the operation in terms of procuring and protecting the group's intellectual property rights as well as policing infringement thereof.

11. Each lace fabric design that ultimately reaches the Tianhai showroom and sales organization in New York is assigned a unique pattern number used to identify the pattern internally and by customers (*e.g.*, CR116). Tianhai's customers generally purchase lace from Tianhai for use in connection with the design, manufacture, and creation of women's apparel.

12. Tianhai's original lace designs are (and have been) sold throughout the United States and within this district; they are the lifeblood of Tianhai's business. Indeed, it is the novelty, quality, and distinctiveness of its designs that sets Tianhai apart from its competitors.

13. Due to Tianhai's position in the trade and its investment in developing its lace designs, Tianhai's success depends on conscientious enforcement of its intellectual property rights, which are valuable assets and sources of significant value, customer loyalty, and business.

a. The XD525 Pattern

14. In or about October 2012, Tianhai created an original and creative work of art for use as a lace design. Photographs of the design are attached hereto as **Exhibit A**.

15. Tianhai first "published" (as that term is defined by the Copyright Act) the lace design, which Tianhai named "Pattern XD525," in or about October 2012.

16. The Pattern XD525 design constitutes an original work of authorship and copyrightable subject matter under the laws of the United States, 17 U.S.C. § 101 *et seq*. Tianhai is the owner of record of the Pattern XD525 design and owns all right, title and interest therein necessary to independently bring the instant action.

17. Tianhai has complied in all respects with the provisions of the copyright law of the United States and has secured all of the rights and privileges in and to the Pattern XD525 design (as well as the copyright therein) necessary to independently bring the instant action.

18. Tianhai has duly registered its copyright in the Pattern XD525 design with the U.S. Copyright Office and is the owner of record of U.S. Copyright Registration No. VA 1-967-086 for the Pattern XD525 design. A true and correct copy of the Certificate of Registration for the copyright in this work is attached hereto as **Exhibit B**.

19. All copies of the work have been sold in conformity with the provisions of the copyright law of the United States and Tianhai has fully complied in all respects with the provisions of the U.S. Copyright Act with respect to the Pattern XD525 design.

20. At all times since it created the Pattern XD525 design, Tianhai has been, and still is, the exclusive holder of all rights, title and interest in and to the copyright therein.

b. The XD451 Pattern

21. In or about June 2013, Tianhai created an original work of art for use as a lace design. A photograph of the design is attached hereto as **Exhibit C**.

22. Tianhai first "published" (as that term is defined by the Copyright Act) the lace design, which Tianhai named "Pattern XD451," in or about June 2013.

23. The Pattern XD451 design constitutes an original work of authorship and copyrightable subject matter under the laws of the United States, 17 U.S.C. § 101 *et seq.* Tianhai is the owner of the Pattern XD451 design and owns all right, title and interest therein necessary to independently bring the instant action.

24. Tianhai has complied in all respects with the provisions of the copyright law of the United States and has secured all of the rights and privileges in and to the Pattern XD451 design (as well as the copyright therein) necessary to independently bring the instant action.

25. Tianhai has duly registered its copyright in the Pattern XD451 design with the U.S. Copyright Office and is the owner of record of U.S. Copyright Registration No. VA 1-967-083 for the Pattern XD451 design. A true and correct copy of the Certificate of Registration for the copyright in this work is attached as **Exhibit D**.

26. All copies of the work have been sold in conformity with the provisions of the copyright law of the United States and Tianhai has fully complied in all respects with the provisions of the U.S. Copyright Act with respect to the Pattern XD451 design.

27. At all times since it created the Pattern XD451 design, Tianhai has been, and still is, the exclusive holder of all rights, title and interest in and to the copyright therein.

c. The Y0729 Pattern

28. In or about November 2012, Tianhai created an original work of art for use as a lace design. A photograph of the design is attached hereto as **Exhibit E**.

29. Tianhai first "published" (as that term is defined by the Copyright Act) the lace design, which Tianhai named "Pattern Y0729," in or about November 2012.

30. The Pattern Y0729 design constitutes an original work of authorship and copyrightable subject matter under the laws of the United States, 17 U.S.C. § 101 *et seq*. Tianhai is the owner of record of the Pattern Y0729 design and owns all right, title and interest therein necessary to independently bring the instant action.

31. Tianhai has complied in all respects with the provisions of the copyright law of the United States and has secured all of the rights and privileges in and to the Pattern Y0729 design (as well as the copyright therein) necessary to independently bring the instant action.

32. Tianhai has duly registered its copyright in the Pattern Y0729 design with the U.S. Copyright Office and is the owner of U.S. Copyright Registration No. VA 1-967-084 for the

Pattern Y0729 design. A true and correct copy of the Certificate of Registration for the copyright in this work is attached as **Exhibit F**.

33. All copies of the work have been sold in conformity with the provisions of the copyright law of the United States and Tianhai has fully complied in all respects with the provisions of the U.S. Copyright Act with respect to the Pattern Y0729 design.

34. At all times since it created the Pattern Y0729 design, Tianhai has been, and still is, the exclusive holder of all rights, title and interest in and to the copyright therein.

d. The A0342 Pattern

35. In or about May 2009, Tianhai created an original work of art for use as a lace design. A photograph of the design is attached hereto as **Exhibit G**.

36. Tianhai first "published" (as that term is defined by the Copyright Act) the lace design, which Tianhai named "Pattern A0342," in or about May 2009.

37. The Pattern A0342 design constitutes an original work of authorship and copyrightable subject matter under the laws of the United States, 17 U.S.C. § 101 *et seq.* Tianhai is the owner of record of the Pattern A0342 design and owns all right, title and interest therein necessary to independently bring the instant action.

38. Tianhai has complied in all respects with the provisions of the copyright law of the United States and has secured all of the rights and privileges in and to the Pattern A0342 design (as well as the copyright therein) necessary to independently bring the instant action.

39. Tianhai has duly registered its copyright in the Pattern A0342 design with the U.S. Copyright Office and is the owner of U.S. Copyright Registration No. VA 1-791-176 for the Pattern A0342 design. A true and correct copy of the Certificate of Registration for the copyright in this work is attached as **Exhibit H**.

40. All copies of the work have been sold in conformity with the provisions of the copyright law of the United States and Tianhai has fully complied in all respects with the provisions of the U.S. Copyright Act with respect to the Pattern A0342 design.

41. At all times since it created the Pattern A0342 design, Tianhai has been, and still is, the exclusive holder of all rights, title and interest in and to the copyright therein.

e. The YD081 Pattern

42. In or about January 2013, Tianhai created an original work of art for use as a lace design. A photograph of the design is attached hereto as **Exhibit I**.

43. Tianhai first "published" (as that term is defined by the Copyright Act) the lace design, which Tianhai named "Pattern YD081," in or about January 2013.

44. The Pattern YD081 design constitutes an original work of authorship and copyrightable subject matter under the laws of the United States, 17 U.S.C. § 101 *et seq.* Tianhai is the owner of record of the Pattern YD081 design and owns all right, title and interest therein necessary to independently bring the instant action.

45. Tianhai has complied in all respects with the provisions of the copyright law of the United States and has secured all of the rights and privileges in and to the Pattern YD081 design (as well as the copyright therein) necessary to independently bring the instant action.

46. Tianhai has duly registered its copyright in the Pattern YD081 design with the U.S. Copyright Office and is the owner of record of U.S. Copyright Registration No. VA 1-886-793 for the Pattern YD081 design. A true and correct copy of the Certificate of Registration for the copyright in this work is attached as **Exhibit J**.

47. All copies of the work have been sold in conformity with the provisions of the copyright law of the United States and Tianhai has fully complied in all respects with the provisions of the U.S. Copyright Act with respect to the Pattern YD081 design.

48. At all times since it created the Pattern YD081 design, Tianhai has been, and still is, the exclusive holder of all rights, title and interest in and to the copyright therein.

f. The YD801 Pattern

49. In or about January 2012, Tianhai created an original work of art for use as a lace design. A photograph of the design is attached hereto as **Exhibit K**.

50. Tianhai first "published" (as that term is defined by the Copyright Act) the lace design, which Tianhai named "Pattern YD801," in or about January 2012.

51. The Pattern YD801 design constitutes an original work of authorship and copyrightable subject matter under the laws of the United States, 17 U.S.C. § 101 *et seq*. Tianhai is the owner of record of the Pattern YD801 design and owns all right, title and interest therein necessary to independently bring the instant action.

52. Tianhai has complied in all respects with the provisions of the copyright law of the United States and has secured all rights and privileges in and to the Pattern YD801 design (as well as the copyright therein) necessary to independently bring the instant action.

53. Tianhai has duly registered its copyright in the Pattern YD801 design with the U.S. Copyright Office and is the owner of record of U.S. Copyright Registration No. VA 1-817-770 for the Pattern YD801 design. A true and correct copy of the Certificate of Registration for the copyright in this work is attached as **Exhibit L**.

g. The Y0450A Pattern

54. In or about October 2010, Tianhai created an original work of art for use as a lace design. A photograph of the design is attached hereto as **Exhibit M**.

55. Tianhai first "published" (as that term is defined by the Copyright Act) the lace design, which Tianhai named "Pattern Y0450A," in or about January 2013.

56. The Pattern Y0450A design constitutes an original work of authorship and copyrightable subject matter under the laws of the United States, 17 U.S.C. § 101 *et seq*. Tianhai is the owner of record of the Pattern Y0450A design and owns all right, title and interest therein necessary to independently bring the instant action.

57. Tianhai has complied in all respects with the provisions of the copyright law of the United States and has secured all of the rights and privileges in and to the Pattern Y0450A design (as well as the copyright therein) necessary to independently bring the instant action.

58. Tianhai has duly registered its copyright in the Pattern Y0450A design with the U.S. Copyright Office and is the owner of record of U.S. Copyright Registration No. VA 1-762-651 for the Pattern Y0450A design. A true and correct copy of the Certificate of Registration for the copyright in this work is attached as **Exhibit N**.

59. All copies of the work have been sold in conformity with the provisions of the copyright law of the United States and Tianhai has fully complied in all respects with the provisions of the U.S. Copyright Act with respect to the Pattern Y0450A design.

60. At all times since it created the Pattern Y0450A design, Tianhai has been, and still is, the exclusive holder of all rights, title and interest in and to the copyright therein.

h. The A9147 Pattern

61. In or about November 2008, Tianhai created an original work of art for use as a lace design. A photograph of the design is attached hereto as **Exhibit O**.

62. Tianhai first "published" (as that term is defined by the Copyright Act) the lace design, which Tianhai named "Pattern A9147," in or about November 2008.

63. The Pattern A9147 design constitutes an original work of authorship and copyrightable subject matter under the laws of the United States, 17 U.S.C. § 101 *et seq*. Tianhai

is the owner of record of the Pattern A9147 design and owns all right, title and interest therein necessary to independently bring the instant action.

64. Tianhai has complied in all respects with the provisions of the copyright law of the United States and has secured all rights and privileges in and to the Pattern A9147 design (as well as the copyright therein) necessary to independently bring the instant action.

65. Tianhai has duly registered its copyright in the Pattern A9147 design with the U.S. Copyright Office and is the owner of record of U.S. Copyright Registration No. VA 2-006-386 for the Pattern A9147 design. A true and correct copy of the Certificate of Registration for the copyright in this work is attached as **Exhibit P**.

66. All copies of the work have been sold in conformity with the provisions of the copyright law of the United States and Tianhai has fully complied in all respects with the provisions of the U.S. Copyright Act with respect to the Pattern A9147 design.

67. At all times since it created the Pattern A9147 design, Tianhai has been, and still is, the exclusive holder of all rights, title and interest in and to the copyright therein.

i. The WK351 Pattern

68. In or about October 2008, Tianhai created an original work of art for use as a lace design. A photograph of the design is attached hereto as **Exhibit Q**.

69. Tianhai first "published" (as that term is defined by the Copyright Act) the lace design, which Tianhai named "Pattern WK351," in or about October 2008.

70. The Pattern WK351 design constitutes an original work of authorship and copyrightable subject matter under the laws of the United States, 17 U.S.C. § 101 *et seq*. Tianhai is the owner of record of the Pattern WK351 design and owns all right, title and interest therein necessary to independently bring the instant action.

71. Tianhai has complied in all respects with the provisions of the copyright law of the United States and has secured all rights and privileges in and to the Pattern WK351 design (as well as the copyright therein) necessary to independently bring the instant action.

72. Tianhai has duly registered its copyright in the Pattern WK351 design with the U.S. Copyright Office and is the owner of record of U.S. Copyright Registration No. VA 2-001-929 for the Pattern WK351 design. A true and correct copy of the Certificate of Registration for the copyright in this work is attached as **Exhibit R**.

73. All copies of the work have been sold in conformity with the provisions of the copyright law of the United States and Tianhai has fully complied in all respects with the provisions of the U.S. Copyright Act with respect to the Pattern WK351 design.

74. At all times since it created the Pattern WK351 design, Tianhai has been, and still is, the exclusive holder of all rights, title and interest in and to the copyright therein.

j. The YDA16 Pattern

75. In or about August 2013, Tianhai created an original work of art for use as a lace design. A photograph of the design is attached hereto as **Exhibit S**.

76. Tianhai first "published" (as that term is defined by the Copyright Act) the lace design, which Tianhai named "Pattern YDA16," in or about August 2013.

77. The Pattern YDA16 design constitutes an original work of authorship and copyrightable subject matter under the laws of the United States, 17 U.S.C. § 101 *et seq*. Tianhai is the owner of record of the Pattern YDA16 design and owns all right, title and interest therein necessary to independently bring the instant action.

78. Tianhai has complied in all respects with the provisions of the copyright law of the United States and has secured all rights and privileges in and to the Pattern YDA16 design (as well as the copyright therein) necessary to independently bring the instant action.

79. Tianhai has duly registered its copyright in the Pattern YDA16 design with the U.S. Copyright Office and is the owner of record of U.S. Copyright Registration No. VA 1-920-232 for the Pattern YDA16 design. A true and correct copy of the Certificate of Registration for the copyright in this work is attached as **Exhibit T**.

80. All copies of the work have been sold in conformity with the provisions of the copyright law of the United States and Tianhai has fully complied in all respects with the provisions of the U.S. Copyright Act with respect to the Pattern YDA16 design.

81. At all times since it created the Pattern YDA16 design, Tianhai has been, and still is, the exclusive holder of all rights, title and interest in and to the copyright therein.

k. The YD376 Pattern

82. In or about March 2014, Tianhai created an original work of art for use as a lace design. A photograph of the design is attached hereto as **Exhibit U**.

83. Tianhai first "published" (as that term is defined by the Copyright Act) the lace design, which Tianhai named "Pattern YD376," in or about March 2014.

84. The Pattern YD376 design constitutes an original work of authorship and copyrightable subject matter under the law of the United States, 17 U.S.C. § 101 *et seq*. Tianhai is the owner of record of the Pattern YD376 design and owns all right, title and interest therein necessary to independently bring the instant action.

85. Tianhai has complied in all respects with the provisions of the copyright law of the United States and has secured all rights and privileges in and to the Pattern YD376 design (as well as the copyright therein) necessary to independently bring the instant action.

86. Tianhai has duly registered its copyright in the Pattern YD376 design with the U.S. Copyright Office and is the owner of record of U.S. Copyright Registration No. VA-1-962-

508 for the Pattern YD376 design. A true and correct copy of the Certificate of Registration for the copyright in this work is attached as **Exhibit V**.

87. All copies of the work have been sold in conformity with the provisions of the copyright law of the United States and Tianhai has fully complied in all respects with the provisions of the U.S. Copyright Act with respect to the Pattern YD376 design.

88. At all times since it created the Pattern YD376 design, Tianhai has been, and still is, the exclusive holder of all rights, title and interest in and to the copyright therein.

89. In all, at least eleven (11) of Tianhai's original lace designs are the subject of the current copyright enforcement action, including Patterns XD525, XD451, Y0729, A0342, YD081, YD801, Y0450A, A9147, WK351, YDA16, and YD376.

Defendants' Infringing Activities

90. Upon information and belief, L&T is a retailer of apparel for women, including clothing, accessories and shoes. L&T advertises that its sells and ships women's apparel products throughout the United States, and the world.

91. Upon information and belief, L&T operates 26 brick-and-mortar stores within close proximity to this District, including four located within this judicial district, five located in the neighboring Eastern District of New York, four located in the bordering state of Connecticut, and thirteen located in the bordering state of New Jersey.

92. Upon information and belief, DOES 1-10 are manufacturers, and/or vendors, and/or other parties who have supplied, manufactured and/or otherwise contributed to the creation of and sale of products incorporating Plaintiff's original works of art for use as lace designs without Plaintiff's knowledge or consent.

93. Upon information and belief, the identities of DOES 1-10 are known to L&T.

94. Upon information and belief, at least eleven (11) of Tianhai's lace designs have been incorporated by Defendants into thirteen (13) garments reproduced, manufactured, distributed, sold, and marketed by Defendants, including Patterns XD525, XD451, Y0729 (twice), A0342 (twice), YD081, YD801, Y0450A, A9147, WK351, YDA16, and YD376.

95. The Pattern XD525 lace design has been incorporated by Defendants into at least one garment reproduced, manufactured, distributed, sold, and marketed by L&T under the designation "ERIN erin fetherston" Style No. ES0415895120 with a retail price of approximately $325.00.

96. A photo of one version of the infringing garment is annexed hereto as **Exhibit W**. A side-by-side comparison of XD525 and L&T's Style No. ES0415895120 is below:

L&T's lace garment

Tianhai's lace pattern

97. Tianhai's XD451 lace design has been incorporated by Defendants into at least one garment reproduced, manufactured, distributed, sold, and marketed by L&T under the designation "ERIN erin fetherston" Style No. ES0415924370 with a retail price of approximately $395.00.

{04358/609463-000/01662283.1}

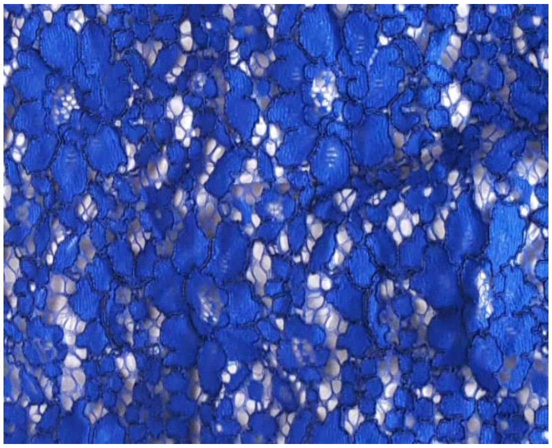
98. A photo of one version of the infringing garment is annexed hereto as **Exhibit X**. A side-by-side comparison of XD451 and L&T's Style No. ES0415924370 is below:

L&T's lace garment

Tianhai's lace pattern

99. Tianhai's Y0729 lace design has been incorporated by Defendants into at least two garments reproduced, manufactured, distributed, sold, and marketed by L&T. The first infringing garment was designated under "Eliza J" Style No. EJ5W9239 with a retail price of approximately $188.00.

100. A photo of one version of the first garment infringing Pattern Y0729 is annexed hereto as **Exhibit Y**. A side-by-side comparison of Y0729 and L&T's Style No. EJ5W9239 is below:



L&T's lace garment

Tianhai's lace pattern

{04358/609463-000/01662283.1}

101. Tianhai's Y0729 lace design has been incorporated by Defendants into at least a second garment reproduced, manufactured, distributed, sold, and marketed by L&T under the designation "Betsey Johnson" Style No. FH02K17 with a retail price of approximately $168.00.

102. A photo of one version of the second garment infringing Pattern Y0729 is annexed hereto as **Exhibit Z**. A side-by-side comparison of Y0729 and L&T's Style No. FH02K17 is below:

L&T's lace garment

Tianhai's lace pattern

103. The Pattern A0342 lace design has been incorporated by Defendants into at least two garments reproduced, manufactured, distributed, sold, and marketed by L&T. The first infringing garment was designated under "Context" Style No. LT810112 with a retail price of approximately $78.00.

104. A photo of one version of the first garment infringing Pattern A0342 is annexed hereto as **Exhibit AA**. A side-by-side comparison of A0342 and Style No. LT810112 is below:

L&T's lace garment

Tianhai's lace pattern

{04358/609463-000/01662283.1}

105. Tianhai's A0342 lace design has been incorporated by Defendants into at least a second garment reproduced, manufactured, distributed, sold, and marketed by L&T under the designation "Xscape" Style No. XS8926 with a retail price of approximately $209.00.

106. A photo of one version of the second garment infringing Pattern A0342 is annexed hereto as **Exhibit BB**. A side-by-side comparison of A0342 and L&T's Style No. XS8926 is below:

L&T's lace garment

Tianhai's lace pattern

107. Tianhai's YD081 lace design has been incorporated by Defendants into at least one garment reproduced, manufactured, distributed, sold, and marketed by L&T under the designation "Cece" Style No. 73369009 with a retail price of approximately $148.00.

108. A photo of one version of the infringing garment is annexed hereto as **Exhibit CC**. A side-by-side comparison of YD081 and L&T's Style No. 73369009 is below:

L&T's lace garment

Tianhai's lace pattern

{04358/609463-000/01662283.1}

109. The Pattern YD801 lace design has been incorporated by Defendants into at least one garment reproduced, manufactured, distributed, sold, and marketed by L&T under the designation "Taylor" L&T Style No. 8188M with a retail price of approximately $148.00.

110. A photo of one version of the infringing garment is annexed hereto as **Exhibit DD**. A side-by-side comparison of YD801 and L&T's Style No. 8188M is below:

L&T's lace garment

Tianhai's lace pattern

111. Tianhai's Y0450A lace design has been incorporated by Defendants into at least one garment reproduced, manufactured, distributed, sold, and marketed by L&T under the designation "Adrianna Papell" Style No. 012260490 with a retail price of approximately $140.00.

112. A photo of one version of the infringing garment is annexed hereto as **Exhibit EE**. A side-by-side comparison of Y0450A and L&T's Style No. 012260490 is below:

L&T's lace garment

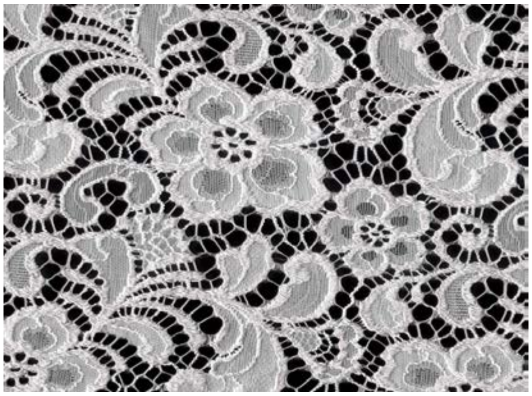
Tianhai's lace pattern

{04358/609463-000/01662283.1}

113. Tianhai's A9147 lace design has been incorporated by Defendants into at least one garment reproduced, manufactured, distributed, sold, and marketed by L&T under the designation "Jax" Style No. 1PKV04Q with a retail price of approximately $159.00.

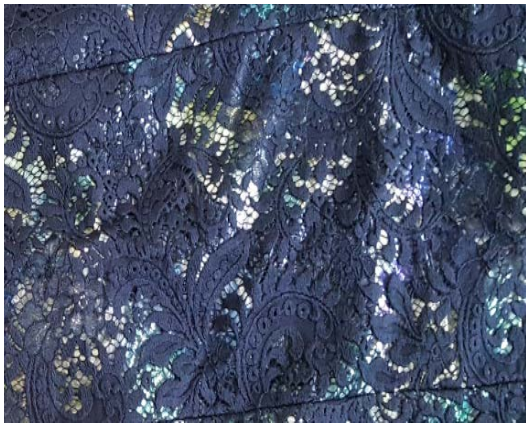
114. A photo of one version of the infringing garment is annexed hereto as **Exhibit FF**. A side-by-side comparison of A9147 and L&T's Style No. 1PKV04Q is below:

L&T's lace garment


Tianhai's lace pattern

115. Tianhai's WK351 lace design has been incorporated by Defendants into at least one garment reproduced, manufactured, distributed, sold, and marketed by L&T under the designation "Theia" Style No. 882878 with a retail price of approximately $650.00.

116. A photo of one version of the infringing garment is annexed hereto as **Exhibit GG**. A side-by-side comparison of WK351 and L&T's Style No. 882878 is below:


L&T's lace garment

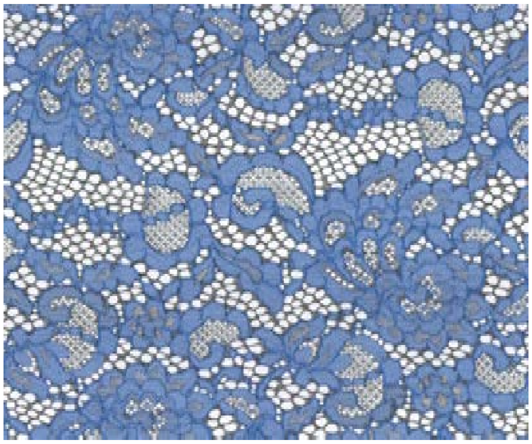
Tianhai's lace pattern

{04358/609463-000/01662283.1}

117. Tianhai's YDA16 lace design has been incorporated by Defendants into at least one garment reproduced, manufactured, distributed, sold, and marketed by L&T under the designation "Aidan" Mattox Style No. 151A14460 with a retail price of approximately $220.00.

118. A photo of one version of the infringing garment is annexed hereto as **Exhibit HH**. A side-by-side comparison of YDA16 and L&T's Style No. 151A14460 is below:

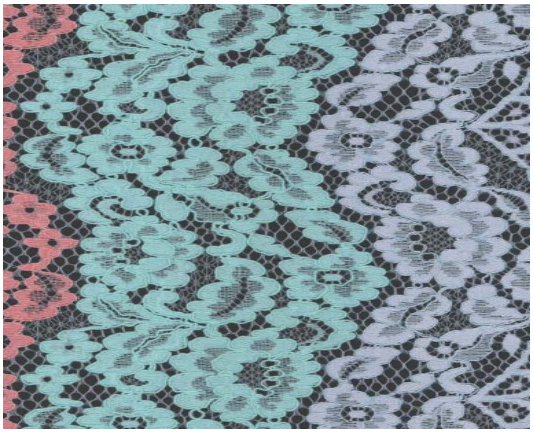
L&T's lace garment


Tianhai's lace pattern

119. The Pattern YD376 lace design has been incorporated by Defendants into at least one garment reproduced, manufactured, distributed, sold, and marketed by L&T under the designation "Donna Morgan" Style No. D4801M with a retail price of approximately $158.00.

120. A photo of one version of the infringing garment is annexed hereto as **Exhibit II**. A side-by-side comparison of YD376 and L&T's Style No. D4801M is below:

L&T's lace garment


Tianhai's lace pattern

{04358/609463-000/01662283.1}

121. Hereinafter, **Exhibits W, X, Y, Z, AA, BB, CC, DD, EE, FF, GG, HH, and II** will be collectively referred to as the "Infringing Products."

122. Upon information and belief, Defendants had access to Tianhai's Pattern XD525, Pattern XD451, Pattern Y0729, Pattern A0342, Pattern YD081, Pattern YD801, Pattern Y0450A, Pattern A9147, Pattern WK351, Pattern YDA16, and Pattern YD376 designs prior to reproducing, manufacturing, distributing, marketing, and selling the Infringing Products.

123. Upon information and belief, Defendants knew at the time that each reproduced, manufactured, distributed, marketed, and offered for sale the Infringing Products that the lace designs incorporated therein comprised the proprietary intellectual property of Tianhai.

124. Upon information and belief, Defendants willfully intended to offer garments for sale to its customers incorporating Tianhai's Pattern XD525, Pattern XD451, Pattern Y0729, Pattern A0342, Pattern YD081, Pattern YD801, Pattern Y0450A, Pattern A9147, Pattern WK351, Pattern YDA16, and Pattern YD376 designs.

Tianhai's Enforcement Activities

125. Tianhai learned that L&T stores in the United States and this District were offering for sale and selling infringing garments, which prominently incorporated a lace design throughout the entire garment that was virtually identical, if not identical, to Tianhai's Pattern XD525, Pattern XD451, Pattern Y0729, and Pattern A0342 designs.

126. Defendants' initial use of Tianhai's Pattern XD525, Pattern XD451, Pattern Y0729, and Pattern A0342 designs prior to July 2015 was without Tianhai's knowledge or permission.

127. Tianhai placed L&T on notice of its infringement of Patterns XD525, XD451, Y0729, and A0342 by letter to L&T's General Counsel on September 22, 2015.

128. Despite being on notice that it was currently infringing Tianhai's Pattern XD525, Pattern XD451, Pattern Y0729 and Pattern A0342 designs, on information and belief, Tianhai learned that L&T stores in the United States were also offering for sale and selling infringing garments, which prominently incorporated a lace design throughout the entire garment that was virtually identical, if not identical, to Tianhai's Pattern YD081, Pattern YD801, Pattern Y0450A, Pattern A9147, and for a second time, Pattern A0342 designs.

129. Defendants' use of Pattern YD081, Pattern YD801, Pattern Y0450A, Pattern A9147, and Pattern A0342 designs prior to July 2016 was without Tianhai's knowledge or permission.

130. Despite being on prior notice that it was currently infringing Tianhai's Pattern XD525, Pattern XD451, Pattern Y0729 and Pattern A0342, on information and belief, Tianhai learned that L&T stores in the United States and this District were also offering for sale and selling infringing garments, which prominently incorporated a lace design throughout the entire garment that was virtually identical, if not identical, to Tianhai's Pattern WK351, Pattern Y0729 for a second time, and YDA16 designs.

131. Defendants' use of Tianhai's Pattern WK351, Pattern Y0729, and YDA16 designs prior to August 2016 was without Tianhai's knowledge or permission.

132. Despite being on prior notice that it was currently infringing Tianhai's Pattern XD525, Pattern XD451, Pattern Y0729, and Pattern A0342, on information and belief, Tianhai learned that L&T stores in the United States and this District were also offering for sale and selling infringing garments, which prominently incorporated a lace design throughout the entire garment that was virtually identical, if not identical, to Tianhai's Pattern YD376 design.

133. Defendant's use of Tianhai's Pattern YD376 prior to October 2016 was without Tianhai's knowledge or permission.

134. Defendants' post-notice use of Tianhai's lace patterns continued unabated despite being advised that such use was without Tianhai's knowledge or permission and, *inter alia*, causing irreparable harm to Tianhai.

135. Upon information and belief, with full and complete knowledge of Tianhai's copyrights discussed above, Defendants willfully infringed Tianhai's copyright in its Pattern XD525, Pattern XD451, Pattern Y0729, Pattern A0342, Pattern YD081, Pattern YD801, Pattern Y0450A, Pattern A9147, Pattern WK351, Pattern YDA16, and Pattern YD376 designs by copying them without Tianhai's permission, license, or consent.

136. Upon information and belief, Defendants did not purchase lace from Tianhai for use in the Infringing Products because, with full knowledge of Tianhai's copyrights, Defendants were manufacturing and/or purchasing unauthorized copies of Pattern XD525, Pattern XD451, Pattern Y0729, Pattern A0342, Pattern YD081, Pattern YD801, Pattern Y0450A, Pattern A9147, Pattern WK351, Pattern YDA16, and Pattern YD376 designs outside the United States or otherwise at a greatly reduced rate.

137. Upon information and belief, Defendants have committed the infringing acts complained of herein willfully and with conscious disregard for Tianhai's rights.

138. Upon information and belief, Defendants' actions have caused damage and irreparable harm to Tianhai. Unless Defendants are compelled to discontinue these actions by the Court, Tianhai will continue to suffer such damage and irreparable harm.

139. Tianhai has no adequate remedy at law.

First Claim for Relief

Copyright Infringement under 17 U.S.C. § 101 *et seq.*

140. Plaintiff repeats and realleges by reference each and every allegation contained in the paragraphs above.

141. Tianhai's Pattern XD525, Pattern XD451, Pattern Y0729, Pattern A0342, Pattern YD081, Pattern YD801, Pattern Y0450A, Pattern A9147, Pattern WK351, Pattern YDA16, and Pattern YD376 designs have never been dedicated to the public.

142. At all times pertinent to this Complaint, Plaintiff has been, and still is, the owner of all right, title, and interest in and to the Pattern XD525, Pattern XD451, Pattern Y0729, Pattern A0342, Pattern YD081, Pattern YD801, Pattern Y0450A, Pattern A9147, Pattern WK351, Pattern Y0729, Pattern YDA16, and Pattern YD376 designs, including the copyrights therein. Tianhai has never assigned, licensed, or otherwise transferred any of these rights, including its copyrights, to L&T; nor has Tianhai ever authorized L&T to copy, distribute, or license the Pattern XD525, Pattern XD451, Pattern Y0729, Pattern A0342, Pattern YD081, Pattern YD801, Pattern Y0450A, Pattern A9147, Pattern WK351, Pattern YDA16, and Pattern YD376 designs.

143. Defendants have directly, vicariously, and/or contributorily infringed Tianhai's rights to the lace design protected by U.S. Copyright Registration Nos. VA 1-967-086 [XD525], VA 1-967-083 [XD451], VA 1-967-084 [Y0729], VA 1-791-176 [A0342], VA 1-886-793 [YD081], VA 1-817-770 [YD801], VA 1-762-651[Y0450A], VA 2-006-386 [A9147], VA 2-001-929 [WK351],VA 1-920-232 [YDA16], and VA 1-962-508 [YD376] by reproducing, displaying, or distributing unauthorized copies of the lace designs in violation of 17 U.S.C. § 501 *et seq.*

144. Defendants either directly or indirectly, copied Tianhai's lace designs for their own commercial gain to the unjust exclusion of Tianhai.

145. By its acts complained of herein, Defendants have infringed the copyrights in the Pattern XD525, Pattern XD451, Pattern Y0729, Pattern A0342, Pattern YD081, Pattern YD801,

Pattern Y0450A, Pattern A9147, Pattern WK351, Pattern YDA16, and Pattern YD376 designs in violation of §§ 106 and 501 of the Copyright Act, 17 U.S.C. § 101, *et seq.*

146. Defendants' infringement of Tianhai's rights in and to each of the copyrighted works each constitutes a separate and distinct act of infringement.

147. Upon information and belief, Defendants knew or should have known that their acts constituted copyright infringement.

148. Defendants' conduct was willful within the meaning of the Copyright Act.

149. Tianhai has been damaged by Defendants' conduct, including, but not limited to economic losses. Tianhai continues to be damaged by such conduct, and has no adequate remedy at law to compensate Tianhai for all the possible damages stemming from Defendants' conduct.

150. Because of the willful nature of Defendants' conduct, Tianhai is entitled to an award of statutory damages for each instance of copyright infringement by Defendants, in lieu of recovery of exemplary damages, attorney's fees, and all associated costs.

Second Claim for Relief
Unfair Competition under New York State Common Law

151. Plaintiff repeats and realleges by reference each and every allegation contained in the paragraphs above.

152. Tianhai has gone to great expense in developing, promoting the sale of, and commercially exploiting its copyrighted Pattern XD525, Pattern XD451, Pattern Y0729, Pattern A0342, Pattern YD081, Pattern YD801, Pattern Y0450A, Pattern A9147, Pattern WK351, Pattern YDA16 and Pattern YD376 designs.

153. As a result of the expenditure of money and skill in the development and promotion of Tianhai's lace fabrics incorporating Tianhai's copyrighted designs, including the

Pattern XD525, Pattern XD451, Pattern Y0729, Pattern A0342, Pattern YD081, Pattern YD801, Pattern Y0450A, Pattern A9147, Pattern WK351, Pattern YDA16, and Pattern YD376 designs, Tianhai's lace fabrics have acquired substantial market value. Moreover, this value has allowed Tianhai to build up substantial goodwill in the distinctive appearance of its lace designs, including its copyrighted Pattern XD525, Pattern XD451, Pattern Y0729, Pattern A0342, Pattern YD081, Pattern YD801, Pattern Y0450A, Pattern A9147, Pattern WK351, Pattern YDA16, and Pattern YD376 designs.

154. Consumers and the general public have come to associate products incorporating Pattern XD525, Pattern XD451, Pattern Y0729, Pattern A0342, Pattern YD081, Pattern YD801, Pattern Y0450A, Pattern A9147, Pattern WK351, Pattern YDA16, and Pattern YD376 designs as emanating exclusively from Tianhai or its customers.

155. The Infringing Products are likely to cause confusion to the general purchasing public as to the source of the lace designs incorporated therein.

156. The lace fabric incorporated in the Infringing Products was manufactured to lower quality standards than those of Tianhai. The use of lower quality lace has tarnished Tianhai's good name in the marketplace due to the perceived association between Defendants' lower quality goods being confused with Tianhai's goods.

157. Defendants, by their acts, have intentionally taken advantage of the knowledge and skill of Tianhai and of the goodwill developed by Tianhai, and has capitalized upon the market created by Tianhai for its distinctive lace designs.

158. The aforesaid acts of Defendants, in manufacturing, distributing, marketing, offering for sale and selling and/or causing to be manufactured, distributed, marketed, offered for sale and/or sold, the Infringing Products, constitutes inequitable conduct, unfair trade practices and unfair competition as defined by New York common law, and are likely to deceive and

confuse Tianhai's customers and other apparel and retail distributors into believing that the Infringing Products are manufactured from lace fabric supplied by Tianhai or are sponsored by, licensed by, endorsed by or are otherwise associated with Tianhai.

159. Defendants' acts constitute misappropriation or attempted misappropriation of Tianhai's copyrighted designs and the goodwill and reputation which are associated therewith.

160. Defendants have misappropriated Tianhai's goodwill and the benefits of Tianhai's skill and expenditures in the development and design of Tianhai's Pattern XD525, Pattern XD451, Pattern Y0729, Pattern A0342, Pattern YD081, Pattern YD801, Pattern Y0450A, Pattern A9147, Pattern WK351, Pattern YDA16, and Pattern YD376 designs and by reason thereof have caused irreparable injury to Tianhai.

161. Tianhai's market has been reduced by Defendants conduct, which injury will continue as long as Defendants are not enjoined by this Court from further manufacturing, distributing, marketing, offering for sale and selling and/or causing to be manufactured, distributed, marketed, offered for sale and/or sold, the Infringing Products in the United States.

162. Defendants have manufactured, distributed, marketed and/or sold the Infringing Products without authorization, license, or permission from Tianhai.

163. Defendants' acts have damaged Tianhai in an amount as yet unknown and may further damage Tianhai in such manner that Tianhai has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests entry of judgment against Defendants finding as a matter of law and fact as follows:

A. Defendants have willfully infringed Plaintiff's rights in the copyrighted designs of: Pattern XD525, Pattern XD451, Pattern Y0729, Pattern A0342, Pattern YD081, Pattern YD801, Pattern Y0450A, Pattern A9147, Pattern WK351, Pattern YDA16, and Pattern YD376.

B. Defendants, their officers, agents, servants, employees, and attorneys, and all others in active concert or participation with them, including any and all third party fabric, lace, ornamental trim, and/or apparel manufacturers, distributors and suppliers who receive actual notice of the Order or Judgment by any method:

i. be permanently enjoined and restrained from copying, reproducing, using, selling, manufacturing, advertising, or promoting copies of the Pattern XD525, Pattern XD451, Pattern Y0729, Pattern A0342, Pattern YD081, Pattern YD801, Pattern Y0450A, Pattern A9147, Pattern WK351, Pattern YDA16, and Pattern YD376 designs or any design substantially similar thereto;

ii. be permanently enjoined and restrained from copying, reproducing, using, selling, manufacturing, or creating derivative works based upon the Pattern XD525, Pattern XD451, Pattern Y0729, Pattern A0342, Pattern YD081, Pattern YD801, Pattern Y0450A, Pattern A9147, Pattern WK351, Pattern YDA16, and Pattern YD376 designs or any design substantially similar thereto; and

iii. be ordered to surrender to Tianhai all Infringing Products or other garments or materials in its possession, custody or control displaying, copying, and/or bearing the Pattern XD525, Pattern XD451, Pattern Y0729, Pattern A0342, Pattern YD081, Pattern YD801, Pattern Y0450A, Pattern A9147, Pattern WK351, Pattern YDA16, and Pattern YD376 designs or any design substantially similar thereto.

C. Defendants be ordered to send written notice, approved by the Court, to each licensee, manufacturer, supplier, distributor, wholesaler, retailer, or any other party who manufactured or sold the Infringing Products, or manufactured or sold other garments bearing the Pattern XD525, Pattern XD451, Pattern Y0729, Pattern A0342, Pattern YD081, Pattern YD801, Pattern Y0450A, Pattern A9147, Pattern WK351, Pattern YDA16, and Pattern YD376 designs, with a copy of each such written notice to be furnished to Tianhai:

i. requesting that the recipient surrender to Tianhai all garments bearing the Pattern XD525, Pattern XD451, Pattern Y0729, Pattern A0342, Pattern YD081, Pattern YD801, Pattern

Y0450A, Pattern A9147, Pattern WK351, Pattern YDA16, and Pattern YD376 designs in its possession, custody or control; and

ii. advising the recipient that pursuant to the judgment of this Court, Defendants have been enjoined from copying, reproducing, using, selling, manufacturing, advertising, or promoting copies of the Pattern XD525, Pattern XD451, Pattern Y0729, Pattern A0342, Pattern YD081, Pattern YD801, Pattern Y0450A, Pattern A9147, Pattern WK351, Pattern YDA16, and Pattern YD376 designs or authorizing any third party to copy, reproduce, use, sell, manufacture, advertise, or promote copies of the Pattern XD525, Pattern XD451, Pattern Y0729, Pattern A0342, Pattern YD081, Pattern YD801, Pattern Y0450A, Pattern A9147, Pattern WK351, Pattern YDA16, and Pattern YD376 designs.

D. Defendants destroy all Infringing Products, materials, documents, catalogues, or advertisements bearing the Pattern XD525, Pattern XD451, Pattern Y0729, Pattern A0342, Pattern YD081, Pattern YD801, Pattern Y0450A, Pattern A9147, Pattern WK351, Pattern YDA16, and Pattern YD376 designs in Defendants' possession, custody and control pursuant to 17 U.S.C. § 503.

E. Defendants remove all webpages, web links, photographs or advertisements bearing the Pattern XD525, Pattern XD451, Pattern Y0729, Pattern A0342, Pattern YD081, Pattern YD801, Pattern Y0450A, Pattern A9147, Pattern WK351, Pattern YDA16, and Pattern YD376 designs from any website that it controls or contributes to.

F. Defendants be required to pay all profits realized by Defendants as a result of its unlawful infringing acts as complained of herein pursuant to 17 U.S.C. § 504.

G. Defendants be required to compensate Tianhai for all actual damages suffered as a result of Defendants' unlawful infringing acts complained of herein pursuant to 17 U.S.C. § 504.

H. In the alternative, Defendants be required to pay Tianhai statutory damages pursuant to 17 U.S.C. § 504, and said statutory damages shall be in the amount of $150,000 per registration infringed as enhanced as a result of Defendant's willful infringing acts as complained of herein.

I. Tianhai be awarded its costs, expenses and reasonable attorney's fees incurred in bringing this action pursuant to 17 U.S.C. § 505.

J. Defendants file with the Court, and serve upon Tianhai's counsel, within thirty (30) days after the entry of the judgment, a report under oath setting forth in detail the manner in which Defendants have complied with such judgment.

K. Such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff, pursuant to Fed.R.Civ.P. 38, demands trial by jury on all issues triable to a jury.

Dated: February 22, 2017
White Plains, New York

Respectfully Submitted,

LEASON ELLIS LLP

Paul Fields
Cameron S. Reuber
Peter T Busch
One Barker Avenue, Fifth Floor
White Plains, NY 10601
Tel: (914) 288-0022
Fax: (914) 288-0023
Email: Fields@leasonellis.com
Email: Reuber@leasonellis.com
Email: Busch@leasonellis.com

Attorneys for Plaintiff